

FORTY-FIFTH DAY - MARCH 16, 2006**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
SECOND SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 16, 2006

PRAYER

The prayer was offered by Father Paul Rutten, Madonna Rehabilitation Hospital, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Bourne who was excused; and Senators Brashear, Brown, Combs, Cornett, Cunningham, Langemeier, Mines, Dw. Pedersen, Price, Raikes, and Synowiecki who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fourth day was approved.

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 15, 2006, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Anderson, Steven
Institute For Justice

Fahleson, Mark A.
Linweld, Inc.

Horn, Ryan
Wal-Mart Stores, Inc.

Zeigler, Jenifer
Institute For Justice

REPORTS

The following reports were received by the Legislature:

Geographic Information Systems (GIS) Steering Committee

Annual Report and Strategic Plan Update of Building a Spatial Data Infrastructure for Nebraska

Revenue, Department of

Employment and Investment Growth Act, Employment Expansion and Investment Incentive Act (including Enterprise Zone Act), Quality Jobs Act, Rural Economic Opportunities Act, and Invest Nebraska Act (LB 775, LB 1124, LB 608, LB 829, and LB 620)

GENERAL FILE

LEGISLATIVE BILL 746A. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 7 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 817A. Title read. Considered.

Advanced to E & R for review with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

MOTION - Return LB 32 to Select File

Senator Beutler moved to return LB 32 to Select File for the following specific amendment:

FA614

Strike the enacting clause.

Senator Beutler withdrew his motion to return.

ANNOUNCEMENT

The Chair announced today is Senator Brashear's birthday.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 32.

A BILL FOR AN ACT relating to natural resources districts; to amend

section 2-3218, Revised Statutes Cumulative Supplement, 2004; to change provisions relating to per diem payments for board members as prescribed; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Howard	Louden	Redfield
Baker	Cudaback	Janssen	McDonald	Schimek
Beutler	Cunningham	Jensen	Mines	Schrock
Brashear	Engel	Johnson	Pahls	Smith
Brown	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Byars	Fischer	Kremer	Pederson, D.	Stuthman
Chambers	Flood	Kruse	Preister	Synowiecki
Combs	Foley	Landis	Price	Thompson
Connealy	Friend	Langemeier	Raikes	Wehrbein

Voting in the negative, 0.

Excused and not voting, 4:

Bourne	Burling	Heidemann	Hudkins
--------	---------	-----------	---------

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 248.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-3,186 and 60-3,187, Revised Statutes Supplement, 2005; to change provisions relating to collection of motor vehicle fees and taxes; to change motor vehicle tax calculations as prescribed; to provide operative dates; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Aguilar	Cornett	Howard	Louden	Redfield
Baker	Cudaback	Janssen	McDonald	Schimek
Beutler	Cunningham	Jensen	Mines	Schrock
Brashear	Engel	Johnson	Pahls	Smith
Brown	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Byars	Fischer	Kremer	Pederson, D.	Stuthman
Chambers	Flood	Kruse	Preister	Synowiecki
Combs	Foley	Landis	Price	Thompson
Connealy	Friend	Langemeier	Raikes	

Voting in the negative, 0.

Present and not voting, 1:

Wehrbein

Excused and not voting, 4:

Bourne Burling Heidemann Hudkins

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 647 with 35 ayes, 2 nays, 8 present and not voting, and 4 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 647.

A BILL FOR AN ACT relating to corporations and other companies; to amend sections 21-2601, 21-2603, 21-2606, 21-2610, 21-2613, 21-2631.01, 21-2632, and 21-2634, Reissue Revised Statutes of Nebraska, and sections 21-301, 21-304, 21-330, 21-2607, 21-2631, and 21-2639, Revised Statutes Cumulative Supplement, 2004; to change provisions relating to occupation tax biennial reports and claims for excess tax payments; to change provisions relating to the Limited Liability Company Act; to define terms; to harmonize provisions; and to repeal the original sections.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 45:

Aguilar	Cornett	Howard	Louden	Redfield
Baker	Cudaback	Janssen	McDonald	Schimek
Beutler	Cunningham	Jensen	Mines	Schrock
Brashear	Engel	Johnson	Pahls	Smith
Brown	Erdman	Kopplin	Pedersen, Dw.	Stuhr
Byars	Fischer	Kremer	Pederson, D.	Stuthman
Chambers	Foley	Kruse	Preister	Synowiecki
Combs	Friend	Landis	Price	Thompson
Connealy	Heidemann	Langemeier	Raikes	Wehrbein

Voting in the negative, 0.

Present and not voting, 1:

Flood

Excused and not voting, 3:

Bourne Burling Hudkins

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 647A.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 647, Ninety-ninth Legislature, Second Session, 2006.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 46:

Aguilar	Cudaback	Janssen	Mines	Smith
Baker	Cunningham	Jensen	Pahls	Stuhr
Beutler	Engel	Johnson	Pedersen, Dw.	Stuthman
Brashear	Erdman	Kopplin	Pederson, D.	Synowiecki
Brown	Fischer	Kremer	Preister	Thompson
Byars	Flood	Kruse	Price	Wehrbein
Chambers	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	
Cornett	Howard	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 3:

Bourne Burling Hudkins

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1019 with 37 ayes, 3 nays, 6 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1019. With Emergency.

A BILL FOR AN ACT relating to retirement systems; to amend sections 71-1631, 72-1237, 79-966.01, 79-987, and 84-1503.02, Reissue Revised Statutes of Nebraska, sections 23-2301, 23-2305.01, 23-2317, 81-2026, 84-1301, 84-1305.02, and 84-1319, Revised Statutes Cumulative Supplement, 2004, and sections 23-2308.01, 24-703, 79-902, 79-992, 81-2017, 84-1309.02, and 84-1503.03, Revised Statutes Supplement, 2005; to define and redefine terms; to provide for payment of dividends; to change provisions relating to defined benefit plans, annuities, contribution amounts, public health departments, refunds of contributions, and the Public Employees Retirement Board as prescribed; to change the terms of members of the Nebraska Investment Council as prescribed; to provide a duty for the School Employees Retirement System; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 50-417.01, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Aguilar	Cudaback	Janssen	Mines	Smith
Baker	Cunningham	Jensen	Pahls	Stuhr
Beutler	Engel	Johnson	Pedersen, Dw.	Stuthman
Brashear	Erdman	Kopplin	Pederson, D.	Synowiecki
Brown	Fischer	Kremer	Preister	Thompson
Byars	Flood	Kruse	Price	Wehrbein
Chambers	Foley	Landis	Raikes	
Combs	Friend	Langemeier	Redfield	
Connealy	Heidemann	Louden	Schimek	
Cornett	Howard	McDonald	Schrock	

Voting in the negative, 0.

Excused and not voting, 3:

Bourne Burling Hudkins

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

SPEAKER BRASHEAR PRESIDING

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 300 and 301 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 300 and 301.

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LBs 32, 248, 647, 647A, and 1019.

RESOLUTION

LEGISLATIVE RESOLUTION 312. Introduced by Stuthman, 22.

WHEREAS, the Humphrey St. Francis Flyers boys' and girls' basketball teams both won the Class D-1 championship at the 2006 Nebraska State Basketball Championships; and

WHEREAS, the Humphrey St. Francis boys' basketball team defeated Axtell 70-34 in the championship game to finish the season with twenty-three wins and three losses; and

WHEREAS, the Humphrey St. Francis girls' basketball team defeated Cross County 56-50 in the championship game to finish the season with twenty-five wins and one loss; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates Humphrey St. Francis on having both the boys' and girls' Class D-1 championship basketball teams.

2. That a copy of this resolution be sent to both Humphrey St. Francis Flyers teams and their coaches, boys' head coach Eric Kessler and girls' head coach Brian Reichmuth.

Laid over.

AMENDMENTS - Print in Journal

Senator D. Pederson filed the following amendment to LB 962:
AM2780

- 1 1. Insert the following new sections:
- 2 Sec. 2. The Legislature finds that:
- 3 (1) Expansion and diversification of Nebraska's economy
- 4 is necessary in order to sustain essential public services
- 5 sponsored or aided by the state;
- 6 (2) Increasing the number of Nebraskans with high
- 7 levels of educational attainment is essential to support economic
- 8 expansion and diversification;
- 9 (3) In order to increase the number of Nebraskans with
- 10 high levels of educational attainment, the state's postsecondary
- 11 education system shall include, but not be limited to, the
- 12 following key priorities that were identified by the LR 174
- 13 Task Force of 2003:
- 14 (a) Increasing the number of students who enter
- 15 postsecondary education in Nebraska;
- 16 (b) Increasing the percentage of students who enroll and
- 17 successfully complete a degree; and
- 18 (c) Reducing, eliminating, and then reversing the net
- 19 out-migration of Nebraskans with high levels of educational
- 20 attainment; and
- 21 (4) Unprecedented collaboration and cooperation between
- 22 and among educational institutions and sectors will be necessary
- 23 to develop community, regional, and statewide strategies to achieve
- 1 progress toward these priorities and to assist the state in
- 2 serving Nebraska students and allowing them to reach their academic
- 3 caliber.
- 4 Sec. 3. On or before March 15 of each year, the
- 5 Coordinating Commission for Postsecondary Education shall provide a
- 6 report that evaluates progress toward attainment of the priorities
- 7 listed in subdivision (3) of section 2 of this act. The Education
- 8 Committee of the Legislature shall review the report at a public
- 9 hearing and report its findings to the Legislature.
- 10 2. Renumber the remaining section accordingly.

Senator Chambers filed the following amendment to LB 1060:
FA615

P. 95, strike lines 3-8.

Senator Chambers filed the following amendment to LB 1060:
FA616

Amendments to Standing Committee amendments, AM2581

1. On page 27, lines 15 and 16, strike "365,000" and insert "865,000"; in line 20 strike "and"; and in line 23 before the period insert "; and

Home visitation and other secondary prevention services included in section 68-1202 -- \$500,000 General Funds".

SELECT FILE

LEGISLATIVE BILL 562. E & R amendment, AM7176, printed separately and referred to on page 966, was adopted.

Senator Chambers offered the following motion:
Indefinitely postpone.

Pending.

PRESENTED TO THE GOVERNOR

Presented to the Governor on March 16, 2006, at 11:15 a.m. were the following: LBs 32, 248, 647, 647A, and 1019e.

(Signed) Jamie Kruse
Clerk of the Legislature's Office

AMENDMENTS - Print in Journal

Senator Byars filed the following amendment to LB 968:
AM2782

(Amendments to Standing Committee amendments, AM2582)

- 1 1. Insert the following new section:
- 2 Sec. 2. Section 77-2704.12, Revised Statutes Supplement,
- 3 2005, is amended to read:
- 4 77-2704.12 (1) Sales and use taxes shall not be imposed
- 5 on the gross receipts from the sale, lease, or rental of and the
- 6 storage, use, or other consumption in this state of purchases by
- 7 any organization created exclusively for religious purposes, any
- 8 nonprofit organization providing services exclusively to the blind,
- 9 any private educational institution established under sections
- 10 79-1601 to 79-1607, any private college or university established
- 11 under sections 85-1101 to 85-1111, any hospital, health clinic when
- 12 two or more hospitals or the parent corporations of the hospitals
- 13 own or control the health clinic for the purpose of reducing
- 14 the cost of health services or when the health clinic receives
- 15 federal funds through the United States Public Health Service for
- 16 the purpose of serving populations that are medically underserved,
- 17 skilled nursing facility, intermediate care facility, intermediate
- 18 care facility for the mentally retarded, nursing facility, home
- 19 health agency, hospice or hospice service, or respite care
- 20 service licensed under the Health Care Facility Licensure Act
- 21 and organized not for profit, any licensed child-caring agency, ~~or~~
- 22 any licensed child placement agency, or any nonprofit organization
- 1 providing community-based services for persons with developmental

2 disabilities.

3 (2) Any organization listed in subsection (1) of this
4 section shall apply for an exemption on forms provided by the
5 Tax Commissioner. The application shall be approved and a numbered
6 certificate of exemption received by the applicant organization in
7 order to be exempt from the sales and use tax.

8 (3) The appointment of purchasing agents shall be
9 recognized for the purpose of altering the status of the
10 construction contractor as the ultimate consumer of building
11 materials which are physically annexed to the structure and
12 which subsequently belong to the owner of the organization or
13 institution. The appointment of purchasing agents shall be in
14 writing and occur prior to having any building materials annexed
15 to real estate in the construction, improvement, or repair. The
16 contractor who has been appointed as a purchasing agent may apply
17 for a refund of or use as a credit against a future use tax
18 liability the tax paid on inventory items annexed to real estate
19 in the construction, improvement, or repair of a project for a
20 licensed not-for-profit institution.

21 (4) Any organization listed in subsection (1) of this
22 section which enters into a contract of construction, improvement,
23 or repair upon property annexed to real estate without first
24 issuing a purchasing agent authorization to a contractor or
25 repairperson prior to the building materials being annexed to
26 real estate in the project may apply to the Tax Commissioner for
27 a refund of any sales and use tax paid by the contractor or
1 repairperson on the building materials physically annexed to real
2 estate in the construction, improvement, or repair.

3 (5) Any person purchasing, storing, using, or
4 otherwise consuming building materials in the performance of any
5 construction, improvement, or repair by or for any institution
6 enumerated in subsection (1) of this section which is licensed upon
7 completion although not licensed at the time of construction or
8 improvement, which building materials are annexed to real estate
9 and which subsequently belong to the owner of the institution,
10 shall pay any applicable sales or use tax thereon. Upon becoming
11 licensed and receiving a numbered certificate of exemption,
12 the institution organized not for profit shall be entitled to
13 a refund of the amount of taxes so paid in the performance
14 of such construction, improvement, or repair and shall submit
15 whatever evidence is required by the Tax Commissioner sufficient
16 to establish the total sales and use tax paid upon the building
17 materials physically annexed to real estate in the construction,
18 improvement, or repair.

19 2. Correct the operative date section and repealer so
20 that the section added by this amendment becomes operative on
21 October 1, 2006.

22 3. Renumber the remaining sections and correct internal
23 references accordingly.

Senator Brashear filed the following amendment to LB 1060:
AM2784

(Amendments to Standing Committee amendments, AM2581)

- 1 1. On page 98, after line 23 insert:
- 2 "It is the intent of the Legislature that the Department
- 3 of Correctional Services determine the amount necessary to
- 4 reimburse counties for eligible county jail reimbursement claims
- 5 for FY2006-07 and FY2007-08. The department shall encourage the
- 6 counties to submit their claims for the entire fiscal year
- 7 regardless of whether there are available appropriations. The
- 8 department shall submit a report to the Chairperson of the
- 9 Appropriations Committee as to such claims no later than July 31,
- 10 2007, and July 31, 2008, and shall include the total amount
- 11 necessary to reimburse the counties for their costs for housing a
- 12 state prisoner pursuant to section 47-119.01 in its FY2007-08 and
- 13 FY2008-09 budget requests so that the Legislature is aware of the
- 14 cost to the counties for maintaining state prisoners."

UNANIMOUS CONSENT - Add Cointroducers

Senator Redfield asked unanimous consent to add her name as cointroducer to LB 562. No objections. So ordered.

Senator Smith asked unanimous consent to add his name as cointroducer to LBs 808, 915, 968, and 990. No objections. So ordered.

Senator Preister asked unanimous consent to add his name as cointroducer to LB 968. No objections. So ordered.

VISITORS

Visitors to the Chamber were Bernard and Carol Mollard from Amherst, and Lauren Mollard and Anita and Matthew Case from Kearney; 16 members of Leadership Columbus; Senator Beutler's father-in-law, Nye Bond, from Lincoln; 4 fifth-grade students from Arlington Public and St. Paul's Lutheran School, Arlington; 40 third- and fourth-grade students and teacher from Sterling; Randy Billups and Eric Slater from Nebraska Lincoln Community Correctional Center; 25 kindergarten through eighth-grade students and teacher from Omaha Catholic Home Schools, Bellevue; 19 fourth-grade students and teacher from Pawnee Elementary School, Pawnee City; and Senator Stuhr's son, daughter-in-law, and grandson, Boyd, Laurie, and Austin Stuhr with 18 first- and second-grade students, teacher, and parents from Hampton Lutheran School, Hampton.

The Doctor of the Day was Dr. Carol LaCroix from Omaha.

ADJOURNMENT

At 11:53 a.m., on a motion by Senator Friend, the Legislature adjourned until 10:00 a.m., Tuesday, March 21, 2006.

Patrick J. O'Donnell
Clerk of the Legislature